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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 604

SUSIE V. WATWOOD, *Petitioner*

v.

REAL ESTATE COMMISSION OF THE DISTRICT OF COLUMBIA, *Respondent*

PETITIONER'S ANSWER TO RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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Respondent's citation of *Ferguson* v. *District of Columbia,* 270 U.S. 633, 46 S. Ct. 355, 70 L. ed. 771, where a writ of error to the Police Court of the District of Columbia was sought under the Jurisdiction of Sec. 240 of the Judicial Code as amended by Act of February 13, 1925, Chap. 229, Sec. 1(a), 43 Stat. 938, is not controlling in appellant's petition. (Respondent's Brief p. 4)

Section 17-103, D.C. Code, 1961 ed., Act of Mar. 2, 1897, 29 Stat. 607, ch. 360; Mar. 3, 1901, 31 Stat. 1225, ch. 854, Sec. 227, related to appeals from police court and is now obsolete. Supp. 111, 1964 is a new law, dealing with appeals from the District of Columbia Court of Appeals.

It will be observed that January 18, 1964, the tenth day after the entry of judgment District of Columbia Court of Appeals was a Saturday. Therefore under FRCP 6(a) as amended January 21, 1963, effective July 1, 1963, petitioner had until the following Monday, January 20, to make her filing. This rule is by its terms applicable "in computing any period of time prescribed or allowed by these rules . . . by order of court, or by any applicable statute."

Therefore the motion to modify filed January 20 was within the statutory ten-day period allowed by *Sec. 16-773, D. C. Code, 1961 ed., or 17-103 Supp. 111, (1964).*

Sec. 16-774 of the D. C. Code, 1961 ed., requires the District of Columbia Court of Appeals to conform its practice to the Federal Rules. *Rule 44(c)** of that court's Rules allow twelve days to file a motion for rehearing or modification The seeming conflict with Rule 27(p) is reconciled in *Kyle* v. *Wiley,* D. C. Mun. App., 78 A. 2d 769. There it is pointed out that, in effect, two days are to be added to practically all the times specified in Rule 27. *Rule 10(b)* of this court's Rules provides that where notice is by mailing "2 days from the date of mailing shall be added to the pre-

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* The mandate of this Court shall issue on the 12th day after entry of judgment unless a motion for rehearing or modification is filed, in which event the mandate shall be stayed until 12 days after disposition of such motion.

scribed period." But whether the time for filing be ten or twelve days, Monday, January 20, was within the time allowed, the tenth day being a Saturday.

The Clerk below therefore acted properly in receiving the motion to modify.

The Constitutional questions presented by petitioner are grave and serious. This Court's decision will affect the real estate commission acts of the 50 States as well as the District of Columbia.

Cases cited in Respondent's Brief pages 4, 5, and 6, have no similarity to appellant's case.

CONCLUSION

Wherefore it is respectfully submitted that respondent's answers and argument are without merit. Appellant has demonstrated a right to review by this Court on Writ of Certiorari. The petition should, therefore, be granted.

Respectfully submitted,

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